

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated May 14, 2007 (hereinafter Office Action) have been considered. Claims 1-50 remain pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 1-11, 13, 14, 16, 18, 20, 21, 23-29, 35-44, and 49-50 are rejected based on 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,624,752 to Klitsgaard (hereinafter “*Klitsgaard*”). The Applicants respectfully traverse the rejection.

While the *Klitsgaard* reference is distinguished from claim language below, the Applicants first note some primary differences between the claimed invention and the cited *Klitsgaard* reference. As described in the Applicants’ application, the claimed invention provides manners in which mobile device users can establish an appropriate communication channel(s) without having to know anything about how the connection(s) is established or how to establish it themselves. By associating visual information with a transponder, the user can simply see a visual reference, instruction, etc., bring his/her mobile device into proximity of that visual reference, and the appropriate type of connection to the appropriate destination is established. For example, an elderly person can bring his/her mobile device into proximity of a visual sticker saying “call 911,” where a transponder is associated with that visual indicator that automatically transfers information to the user’s mobile device to invoke the phone application and call the 911 number automatically.

Klitsgaard, on the other hand, relates to something entirely different. *Klitsgaard* provides a way of tracking and finding objects, such as luggage. For example, the user can walk around a luggage conveyer and a Bluetooth-equipped mobile device will beep or notify her when she gets close to her Bluetooth-equipped luggage. *Klitsgaard* also mentions other use cases for such a system such as locating children (having a tag in a wristband, for example), and preventing theft or otherwise locating other tagged devices (see, e.g. *Klitsgaard* at column 14-16). *Klitsgaard* specifically mentions that the invention’s goal is twofold: 1) to find an object; or 2) to detect the loss of an object (column 1, lines 23-24). As described more fully below, the present invention does not relate to finding objects, but rather enables a user to activate a communication feature(s) on a mobile device by intentionally bringing the mobile device within

range of the known location specified by a visual representation of the function to be carried out. There is a fundamental difference between *Klitsgaard*'s "finding" objects and the present invention's association of visible indicia and transponders where the location of the visual indicia is not at issue.

Referring now to independent Claim 1, a visual representation is associated with each of the transponders. An example of this is shown in FIG. 9, where a visual representation (e.g., 902) is associated with each of the transponders (e.g., 904). *Klitsgaard* does not teach any such visual association with transponders. The Examiner argues that *Klitsgaard* teaches that the hand-held terminal has a screen that will display messages and graphics received from the tag. However, the claim is clear in that the visual representation is associated with the transponder, and the mobile device must be positioned proximate the visual representation. Claim 1 indicates that the transponder is activated **in response to the mobile device being positioned proximate the visual representation** associated with the transponder. If the mobile device screen contents corresponds to the "visual representation" of Claim 1 as contended by the Examiner, then the *Klitsgaard* device user would have to position the mobile device proximate itself since the screen is on the mobile device itself. This is not what is set forth in the claim. Claim 1 indicates that the mobile device is positioned "proximate the visual representation associated with the transponder." The "screen" images on the mobile device of *Klitsgaard* cannot be seen as associated with a transponder - rather, it is associated with the mobile device and thus has nothing to do with a visual representation associated with a transponder. It is respectfully submitted that the claim includes recitations that are not properly interpreted or considered in view of what *Klitsgaard* teaches, and *Klitsgaard* does not teach what is set forth in at least Claim 1.

The Examiner also contends that *Klitsgaard*'s terminal (18) with a screen (19) displays messages and graphics, and "[t]herefore, *Klitsgaard* teaches applicant's 'associating' and 'activating' steps." Applicants respectfully submit that the Examiner has skipped any analysis as to why this would be the case. On the contrary, because any visual image is on the terminal (18) itself, *Klitsgaard* clearly does not teach associating a visual representation with a transponder(s). The Applicants respectfully submit that the Examiner's statement above is a conclusory argument that does not have basis from the *Klitsgaard* reference itself.

The Office Action also suggests that the visual representation of *Klitsgaard* (on the mobile device) triggers a function to be performed by notifying someone else (e.g., owners of the luggage) via SMS, email, etc. However, the Applicants contest this interpretation of Claim 1. Claim 1 indicates that a visual representation(s) is associated with a transponder(s) where that visual representation(s) corresponds to a function(s) to be performed, the transponder(s) is activated when the mobile device is placed in proximity to the visual representation, and the function shown on the visual representation is then performed. The Examiner's argument of sending SMS or e-mail messages does not occur in response to positioning the mobile terminal proximate its own display/screen.

In this regard, the Applicants also note that the claimed recitation of "associating a visual representation with each of the one or more transponders, wherein each visual representation corresponds to at least one function to be performed" is essentially not addressed in the Office Action. The Examiner makes the general statement that "*Klitsgaard* teaches applicant's 'associating' and 'activating' steps," but does not show where in *Klitsgaard* at least this association of the visual representation(s) and the transponder(s) is described. This fact alone demonstrates that the Office has not established that *Klitsgaard* anticipates Claim 1.

While the Applicants do not acquiesce with other remarks in the Office Action that correlate teachings of *Klitsgaard* with the rejected claims, the Applicants note that all claim limitations must be found in the single prior art reference to maintain a rejection based on 35 U.S.C. §102, and establishing that any one or more such limitations are missing from the prior art is sufficient to overcome a §102 rejection. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; i.e. every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that *Klitsgaard* fails to teach all limitations of Claim 1, and therefore fails to anticipate Claim 1. Thus, there is no need to address additional possible distinctions, and any other differences not argued is not an admission by the Applicant that such other elements are taught by *Klitsgaard*.

Reconsideration and allowance of independent Claim 1 is respectfully solicited.

Claims 1-11, 13, 14, 16, 18, 20, 21, 23-29, 35-44 and 49-50 were rejected based on the same rationale. Because there are no specific rejections for each of these claims, the Applicants have not provided specific responses to each of the claims. A plurality of claims should never be grouped together in a common rejection, unless that rejection is equally applicable to all claims in the group. M.P.E.P. § 707.07(d). The Applicants contend that *Klitsgaard* fails to teach what is set forth in independent Claim 1, the other independent claims, and their respective dependent claims. It is believed that at least the foregoing description establishes that *Klitsgaard* cannot anticipate any of the claims subject to the anticipation rejection based on *Klitsgaard*. If the Examiner maintains the rejection, the Applicants respectfully request clarification on which parts of the rejection are being applied to each of these claims.

Claims 15 and 17 are rejected based on 35 U.S.C. §103(a) as being unpatentable over *Klitsgaard*. The Applicants respectfully traverse the rejection. *Klitsgaard* at least fails to teach, or suggest, the limitations of independent Claim 13 from which dependent Claims 15 and 17 are dependent, for at least reasons analogous to those set forth above. Because all of the limitations of Claim 13, and therefore Claims 15 and 17, are not taught or suggested as required by M.P.E.P. § 2143, *prima facie* obviousness is not established.

Claims 12, 30-34 and 45-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Klitsgaard* in view of U.S. Patent No. 5,649,296 to *MacLellan*. The Applicants respectfully disagree. Regarding Claim 12, *MacLellan* is not cited as teaching limitations of independent Claim 1, nor does it remedy the deficiencies of what *Klitsgaard* fails to teach regarding Claim 1. *MacLellan* concerns only RFID technologies, and like *Klitsgaard*, does not teach or suggest associating with each transponder a visual representation corresponding to a function(s) to be performed, or performing a function corresponding to any visual representation associated with a transponder. Because neither *Klitsgaard* nor *MacLellan* teach or suggest at least these recited features included in Claim 12, a combination of *Klitsgaard* and *MacLellan* fails to teach or suggest these features and *prima facie* obviousness has not been established.

Claim 30 is an independent Claim that also includes activating the transponder(s) when the mobile device is “positioned proximate the visual representation associated with the

transponder.” As indicated above, neither *Klitsgaard* nor *MacLellan* teach this, nor does a combination of these references contemplate these limitations to assist a user in carrying out the ultimate communication function.

Further, *Klitsgaard* is ostensibly relied upon as teaching sending an application identifier and the content. However, *Klitsgaard* does not teach sending any such application identifier. For example, in column 3, lines 35-34 of *Klitsgaard*, it provides an example where an airline company realizes that a piece of luggage has been sent to a wrong destination, and the address of the owner can be provided via the tag. This, however, is not an application identifier, but rather identifies the owner. The owner’s “address” does not identify the application that the airline would use to send the owner a message, e-mail, etc. Rather, the airline would have to try to determine what technology to use based on the address provided. In Claim 30, both an application identifier and content are provided so that the mobile device can determine which application to invoke, and then the content can be used for various reasons including determining the destination to contact or to send the communication. Thus, a combination of *Klitsgaard* and *MacLellan* also fails to teach or suggest at least these additional limitations of independent Claim 30.

Claims 31-34, which are dependent from independent Claim 30, were also rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Klitsgaard* and *MacLellan*. While Applicant does not acquiesce with any particular rejections to these dependent claims, including any assertions concerning common knowledge, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claim 30. These dependent claims include all of the limitations of Claim 30 and any intervening claims, and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious.” M.P.E.P. §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 31-34 are also allowable over the combination of *Klitsgaard* and *MacLellan*.

Claim 45 is an independent Claim that also includes a *visual identifier* visually depicting a communication function operable via the mobile device, where a signal is provided

when the mobile device is positioned proximate the *visual identifier*. Neither *Klitsgaard* nor *MacLellan*, either alone or in combination, teaches or suggests the use of any visual identifier relating to the ultimate communication function such that positioning a mobile device proximate this visual identifier will cause the function to be carried out. Additionally, as described above, the combination does not involve sending an application identifier of an application on the mobile device. Even if in *Klitsgaard* a luggage owner's e-mail address was sent, no application is identified by the application identifier in *Klitsgaard* - rather, *Klitsgaard* would have to somehow ascertain how to do this, and *Klitsgaard* is silent on this (the airline presumably would have to make this determination manually). For at least this additional reason, the combination of *Klitsgaard* and *MacLellan* does not teach or suggest all the limitations of independent Claim 45, and thus *prima facie* obviousness has not been established.

Claims 46-47, which are dependent from independent Claim 45, were also rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of *Klitsgaard* and *MacLellan*. While Applicant does not acquiesce with any particular rejections to these dependent claims, including any assertions concerning common knowledge, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with independent Claim 45. These dependent claims include all of the limitations of Claim 45 and any intervening claims, and recite additional features which further distinguish these claims from the cited references. Therefore, dependent Claims 46-47 are also allowable over the combination of *Klitsgaard* and *MacLellan*.

Claim 48 is an independent claim that also includes specific references to visual representations that are not taught or suggested by the combination of *Klitsgaard* and *MacLellan*. For example, Claim 48 relates to an apparatus that a user can use to initiate the communication function when bringing the apparatus proximate a visual representation of the desired function. Particularly, Claim 48 includes an RF reader configured to receive information to invoke an application when the apparatus is positioned within a signal range of a transponder marked with a visual representation of the function(s) to be performed. As indicated above, neither *Klitsgaard* nor *MacLellan*, either alone or in combination, teach or suggest that any transponder is marked with a visual representation of the function(s) to be

performed. Further, a combination of these references does not perform a function “corresponding to the visual representation” because the visual representation is what is used by the user to determine the desired function and neither *Klitsgaard* nor *MacLellan* describes this. As previously indicated, *Klitsgaard*’s information provided on a terminal’s screen does not correspond to, teach, or suggest any transponder marked with a visual representation of the function(s) to be performed. For at least these reasons, the *Klitsgaard/MacLellan* combination fails to teach or suggest all the limitations of Claim 48, and accordingly *prima facie* obviousness is not established with respect to Claim 48.

Claim 19 is rejected based on 35 U.S.C. §103(a) as being unpatentable over *Klitsgaard* in view of U.S. Publication No. 2002/0111164 by Ritter (hereinafter “*Ritter*”). The Applicant respectfully traverses the rejection. *Klitsgaard* is relied upon as teaching the recitations of Claim 13, from which Claim 19 is dependent. *Ritter* is not cited as teaching limitations of independent Claim 13, nor does it remedy the deficiencies of what *Klitsgaard* fails to teach regarding Claim 13. Like *Klitsgaard*, *Ritter* does not teach or suggest associating with each transponder a visual representation corresponding to a function(s) to be performed, or performing a function corresponding to any visual representation associated with a transponder. Because neither *Klitsgaard* nor *Ritter* teach or suggest at least these recited features of Claim 13, a combination of *Klitsgaard* and *Ritter* fails to teach or suggest these features and *prima facie* obviousness has not been established.

Claim 22 is rejected based on 35 U.S.C. §103(a) as being unpatentable over *Klitsgaard* in view of U.S. Publication no. 2004/0203352 by Hall et al. (hereinafter “*Hall*”). The Applicant respectfully traverses the rejection. *Klitsgaard* is relied upon as teaching the recitations of Claim 20, from which Claim 22 is dependent. *Hall* is not cited as teaching limitations of independent Claim 20, nor does it remedy the deficiencies of what *Klitsgaard* fails to teach regarding Claim 20. Like *Klitsgaard*, *Hall* does not teach or suggest associating with each transponder a visual representation corresponding to a function(s) to be performed, or performing a function corresponding to any visual representation associated with a transponder. Because neither *Klitsgaard* nor *Hall* teach or suggest at least these recited features of Claim 20, a combination of *Klitsgaard* and *Hall* fails to teach or suggest these features and *prima facie* obviousness has not been established.

Authorization is given to charge Deposit Account No. 50-3581 (NOKV.013CIP) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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